

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
NGM INSURANCE COMPANY,

Docket No.:
07-CV-6517

Plaintiff,

-against-

BLAKELY PUMPING, INC. d/b/a ASSENTIAL PUMPING,
BRIAN J. BLAKELY, PETER J. SLINGERLAND, NANCY
SLINGERLAND and PROGRESSIVE CASUALTY
INSURANCE COMPANY,

**EXHIBITS TO
MOTION**

Defendants.

-----X

EXHIBITS Q-R

EXHIBIT Q



NGM INSURANCE COMPANY
55 West Street, Keene, NH 03431
Telephone: 1-888-646-7736

INSURED

CONTRACTORS POLICY DECLARATIONS

Named Insured and Mailing Address

ASSENTIAL PUMPING INC

Policy Number: MPV52824
Account Number: CACV52824

11 MARY LOU LANE
SHOKAN, NY 12481

Agent: DE FOREST GROUP INC
AGENT PHONE : 845 339 2114

Producer Code: 311121

POLICYHOLDER INFORMATION

Named Insureds Business: SEPTIC TANK INSTALL OR REPAIR

Entity: CORPORATION

Policy Term: 12

Effective: 07/13/05 (12:01 A.M. Standard Time at the address
Expiration: 07/13/06 of the Named Insured stated above)

In return for the payment of the premium and subject to all the terms of this policy, we agree with you to provide the insurance as stated in this policy. See the attached schedules for Description of Premises, Property Coverage, Optional Coverages, Forms and Endorsements applying to this policy and Mortgagee Schedule if applicable.

BUSINESS OWNERS LIABILITY COVERAGE

LIMITS OF INSURANCE

Liability & Medical Expenses - each occurrence	\$ 1,000,000
Personal and Advertising Injury Limit	\$ 1,000,000
Products-Completed Operations Aggregate Limit	\$ 2,000,000
General Aggregate Limit	\$ 2,000,000
Fire Legal Liability - any one fire or explosion	\$ 500,000
Medical Expense Limit - per person	\$ 10,000

Business Liability and Medical Expense: Except for Fire Legal Liability, each paid claim for the above coverages reduces the amount of insurance we provide during the applicable annual period. Please refer to section D.4. of the Businessowners Liability Coverage Form.

For policies subject to premium audit: Annual Audit Applies.

Estimated Annual Premium: \$ 2,850

TOTAL PREMIUM AND CHARGES \$ 2,850

Countersigned: _____ By: _____

64-5470 (9/00) 08/04/05 NEW BUSINESS JG

NGM INSURANCE COMPANY

ASSENTIAL PUMPING INC

Policy Number: MPV52824

Account Number: CACV52824

Effective Date: 07/13/05

Producer Code: 311121

Agent: DE FOREST GROUP INC

CONTRACTORS DECLARATIONS - COVERAGES APPLYING TO THIS LOCATION

DESCRIPTION OF PREMISES - ADDRESSES

Prems. Bldg.

No. No. Address

DESCRIPTION OF PREMISES - OCCUPANCY AND CONSTRUCTION

Prems. Bldg.

No. No. Occupancy Construction Protection

COVERAGES PROVIDED

Prems. Bldg.

No. No. Coverage Limit of Ded

OPTIONAL COVERAGES

Prems. Bldg.

No.	No.	Coverage	Limits
ALL	ALL	HIRED AUTO	INCLUDED
		NON-OWNED AUTO	INCLUDED
		GL AGGREGATE LIMITS APPLY PER JOB	SEE BP0702

NGM INSURANCE COMPANY

ASSENTIAL PUMPING INC

Agent: DE FOREST GROUP INC

Policy Number: MPV52824
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 Effective Date: 07/13/05
 Producer Code: 311121

CONTRACTORS POLICY DECLARATIONS - LIABILITY SCHEDULE

LIABILITY COVERAGES PROVIDED

Classification	Code No.	Premium Basis	Rate	Advance Premium Prems/Op & Products
STATE - NEW YORK				
SEPTIC TANKS-INSTALLATION-	98806	45000 PAYROLL	60.386	2717
* PD DEDUCTIBLE = NONE				

Total Estimated Liability Premium 2717
 * LIABILITY PROPERTY DAMAGE DEDUCTIBLE PER CLAIM

NGM INSURANCE COMPANY

ASSENTIAL PUMPING INC

Agent: DE FOREST GROUP INC

Policy Number: MPV52824
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Effective Date: 07/13/05
Producer Code: 311121

CONTRACTORS FORM SCHEDULE

Forms and Endorsements applying to this Coverage Part and made a part of this policy at time of issue:

BP0006	0197 BUSINESS OWNERS LIABILITY COVERAGE FORM
BP0009	0197 BUSINESS OWNERS COMMON POLICY CONDITIONS
BP0115	0205 NEW YORK CHANGES
BP0151	0197 NEW YORK CHANGES - TRANSFER OF DUTIES WHEN LIMIT USED
BP0417	0196 EMPLOYMENT RELATED PRACTICES EXCLUSION
BP0418	0689 AMENDMENT - LIQUOR LIABILITY EXCLUSION
BP0436	0197 HIRED AUTO & NON-OWNED AUTO LIABILITY - NEW YORK
BP0523	1102 CAP ON LOSSES FROM CERTIFIED ACTS OF TERRORISM
BP0702	0197 AMENDMENT - AGGREGATE LIMITS OF INSURANCE (PER PROJECT)
IL0183	0498 NEW YORK CHANGES - FRAUD
60-7195	0800 PARTICIPATION CLAUSE & COMPANY SIGNATURES
64-5838	0400 EXCLUSION - EXTERIOR INSULATION & FINISH SYSTEM WORK
64-5869	1100 INTELLECTUAL PROPERTY LIABILITY - EXCLUSION
64-5960	0701 PRIVACY NOTICE
64-5996	1001 CONTRACTORS EXTENSION ENDORSEMENT - NEW YORK
64-8162	0103 TERRORISM DISCLOSURE NOTICE

NGM INSURANCE COMPANY
55 WEST STREET
KEENE NEW HAMPSHIRE 03431

POLICY NUMBER:
MPV52824

NAMED INSURED

ASSENTIAL PUMPING INC

11 MARY LOU LANE
SHOKAN, NY 12481

Dear Policyholder,

On November 26, 2002, the Terrorism Risk Insurance Act of 2002 was signed into law by the United States Congress and the President. This Act automatically provides coverage for certain acts of terrorism under your current policy. **Please note that you do not need to do anything regarding this coverage - it is provided to you at no additional cost.**

If you previously received notice regarding a terrorism exclusion on your renewal, that exclusion no longer applies and you will enjoy the full amount of coverage as specified by this new law.

On the reverse side of this notice is a Policyholder Disclosure Notice of Terrorism Insurance which officially sets the premium charged for this coverage at \$0.00 at this time.

If there are any further developments, modifications or changes to this coverage, we will keep you informed. In the meantime, if you have any questions regarding the Terrorism Act or your coverage under that Act, contact your independent agent.

**POLICYHOLDER DISCLOSURE
NOTICE OF TERRORISM
INSURANCE COVERAGE**

Coverage for acts of terrorism is already included in your current policy. You should know that, effective November 26, 2002, under your existing coverage, any losses caused by certified acts of terrorism would be partially reimbursed by the United States under a formula established by federal law. Under this formula, the United States pays 90% of covered terrorism losses exceeding the statutorily established deductible paid by the insurance company providing the coverage. The portion of your annual premium that is attributable to coverage for acts of terrorism is: \$ 00.00 .

P.O. Box 2300, Keene, New Hampshire 03431
(800) 258-5310

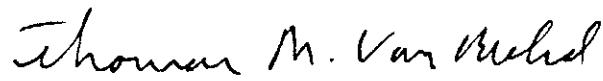
PARTICIPATION CLAUSE WITHOUT CONTINGENT LIABILITY: No Contingent Liability: This policy is nonassessable.

The policyholder is a member of the company and shall participate, to the extent and upon the conditions fixed and determined by the Board of Directors in accordance with the provisions of law, in the distribution of dividends so fixed and determined.

MUTUALS - MEMBERSHIP AND VOTING NOTICE: The insured is notified that by virtue of this policy, he is a member of the National Grange Mutual Insurance Company of Keene, New Hampshire, and is entitled to vote either in person or by proxy at any and all meetings of said Company. The Annual Meetings are held in its Home Office, on the second Friday of March, in each year.



William C. McKenna
Secretary



Thomas M. Van Berkel
President

60-7195 (8/00)

BUSINESS OWNERS LIABILITY COVERAGE FORM

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this policy the words "you" and "your" refer to the Named Insured shown in the Declarations. The words "we", "us" and "our" refer to the Company providing this insurance.

The word "insured" means any person or organization qualifying as such under Section C - Who Is An Insured.

Other words and phrases that appear in quotation marks have special meaning. Refer to Section F - Liability And Medical Expenses Definitions.

A. Coverages

1. Business Liability

a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "bodily injury", "property damage", "personal injury" or "advertising injury" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "bodily injury", "property damage", "personal injury", or "advertising injury" to which this insurance does not apply. We may at our discretion, investigate any "occurrence" and settle any claim or "suit" that may result. But:

- (1) The amount we will pay for damages is limited as described in Section D - Liability And Medical Expenses Limits Of Insurance; and
- (2) Our right and duty to defend end when we have used up the applicable limit of insurance in the payment of judgments or settlements or medical expenses.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Coverage Extension - Supplementary Payments.

b. This insurance applies:

- (1) To "bodily injury" and "property damage" only if:
 - (a) The "bodily injury" or "property damage" is caused by an "occurrence" that takes place in the "coverage territory"; and

- (b) The "bodily injury" or "property damage" occurs during the policy period.
- (2) To:
 - (a) "Personal injury" caused by an offense arising out of your business, excluding advertising, publishing, broadcasting or telecasting done by or for you;
 - (b) "Advertising injury" caused by an offense committed in the course of advertising your goods, products or services; but only if the offense was committed in the "coverage territory" during the policy period.
- c. Damages because of "bodily injury" include damages claimed by any person or organization for care, loss of services or death resulting at any time from the "bodily injury".
- d. **Coverage Extension - Supplementary Payments**

In addition to the Limit of Insurance, we will pay, with respect to any claim we investigate or settle, or any "suit" against an insured we defend:

 - (1) All expenses we incur.
 - (2) Up to \$250 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which Business Liability Coverage for "bodily injury" applies. We do not have to furnish these bonds.
 - (3) The cost of bonds to release attachments, but only for bond amounts within our Limit of Insurance. We do not have to furnish these bonds.
 - (4) All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$250 a day because of time off from work.
 - (5) All costs taxed against the insured in the "suit".
 - (6) Prejudgment interest awarded against the insured on that part of the judgment we pay. If we make an offer to pay the Limit of Insurance, we will not pay any prejudgment interest based on that period of time after the offer.

(7) All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within our Limit of Insurance.

If we defend an insured against a "suit" and an indemnitee of the insured is also named as a party to the "suit", we will defend that indemnitee if all of the following conditions are met:

- a. The "suit" against the indemnitee seeks damages for which the insured has assumed the liability of the indemnitee in a contract or agreement that is an "insured contract";
- b. This insurance applies to such liability assumed by the insured;
- c. The obligation to defend, or the cost of the defense of, that indemnitee, has also been assumed by the insured in the same "insured contract";
- d. The allegations in the "suit" and the information we know about the "occurrence" are such that no conflict appears to exist between the interests of the insured and the interests of the indemnitee;
- e. The indemnitee and the insured ask us to conduct and control the defense of that indemnitee against such "suit" and agree that we can assign the same counsel to defend the insured and the indemnitee; and
- f. The indemnitee:

- (1) Agrees in writing to:

- (a) Cooperate with us in the investigation, settlement or defense of the "suit";
- (b) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the "suit";
- (c) Notify any other insurer whose coverage is available to the indemnitee; and
- (d) Cooperate with us with respect to coordinating other applicable insurance available to the indemnitee; and

- (2) Provides us with written authorization to:

- (a) Obtain records and other information related to the "suit"; and
- (b) Conduct and control the defense of the indemnitee in such "suit".

So long as the above conditions are met, attorneys' fees incurred by us in the defense of that indemnitee, necessary litigation expenses incurred by us and necessary litigation expenses incurred by the indemnitee at our request will be paid as Supplementary Payments. Notwithstanding the provisions of Paragraph **B.1.b.(2)** of Exclusions, such payments will not be deemed to be damages for "bodily injury" and "property damage" and will not reduce the limits of insurance.

Our obligation to defend an insured's indemnitee and to pay for attorneys' fees and necessary litigation expenses as Supplementary Payments ends when:

- a. We have used up the applicable limit of insurance in the payment of judgments or settlements; or
- b. The conditions set forth above, or the terms of the agreement described in Paragraph f. above are no longer met.

2. Medical Expenses

- a. We will pay medical expenses as described below for "bodily injury" caused by an accident:

- (1) On premises you own or rent;
- (2) On ways next to premises you own or rent; or
- (3) Because of your operations;

provided that:

- (a) The accident takes place in the "coverage territory" and during the policy period;

- (b) The expenses are incurred and reported to us within one year of the date of the accident; and

- (c) The injured person submits to examination, at our expense, by physicians of our choice as often as we reasonably require.

- b. We will make these payments regardless of fault. These payments will not exceed the Limit of Insurance. We will pay reasonable expenses for:

- (1) First aid administered at the time of an accident;
- (2) Necessary medical, surgical, x-ray and dental services, including prosthetic devices; and
- (3) Necessary ambulance, hospital, professional nursing and funeral services.

B. Exclusions

1. Applicable to Business Liability Coverage

This insurance does not apply to:

a. Expected Or Intended Injury

"Bodily injury" or "property damage" expected or intended from the standpoint of the insured. This exclusion does not apply to "bodily injury" resulting from the use of reasonable force to protect persons or property.

b. Contractual Liability

"Bodily injury" or "property damage" for which the insured is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages:

- (1) That the insured would have in the absence of the contract or agreement; or
- (2) Assumed in a contract or agreement that is an "insured contract," provided the "bodily injury" or "property damage" occurs subsequent to the execution of the contract or agreement. Solely for the purposes of liability assumed in an "insured contract", reasonable attorney fees and necessary litigation expenses incurred by or for a party other than an insured are deemed to be damages because of "bodily injury" or "property damage", provided:
 - (a) Liability to such party for, or for the cost of, that party's defense has also been assumed in the same "insured contract"; and
 - (b) Such attorney fees and litigation expenses are for defense of that party against a civil or alternative dispute resolution proceeding in which damages to which this insurance applies are alleged.

c. Liquor Liability

"Bodily injury" or "property damage" for which any insured may be held liable by reason of:

- (1) Causing or contributing to the intoxication of any person;
- (2) The furnishing of alcoholic beverages to a person under the legal drinking age or under the influence of alcohol; or
- (3) Any statute, ordinance or regulation relating to the sale, gift, distribution or use of alcoholic beverages.

This exclusion applies only if you are in the business of manufacturing, distribut-

ing, selling, serving or furnishing alcoholic beverages.

d. Workers' Compensation And Similar Laws

Any obligation of the insured under a workers' compensation, disability benefits or unemployment compensation law or any similar law.

e. Employer's Liability

"Bodily injury" to:

- (1) An "employee" of the insured arising out of and in the course of:
 - (a) Employment by the insured; or
 - (b) Performing duties related to the conduct of the insured's business; or
- (2) The spouse, child, parent, brother or sister of that "employee" as a consequence of Paragraph (1) above.

This exclusion applies:

- (a) Whether the insured may be liable as an employer or in any other capacity; and
- (b) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

This exclusion does not apply to liability assumed by the insured under an "insured contract."

f. Pollution

(1) "Bodily injury" or "property damage" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of pollutants:

- (a) At or from any premises, site or location which is or was at any time owned or occupied by, or rented or loaned to, any insured;
- (b) At or from any premises, site or location which is or was at any time used by or for any insured or others for the handling, storage, disposal, processing or treatment of waste;
- (c) Which are or were at any time transported, handled, stored, treated, disposed of, or processed as waste by or for any insured or any person or organization for whom you may be legally responsible; or
- (d) At or from any premises, site or location on which any insured or any contractors or subcon-

tractors working directly or indirectly on any insured's behalf are performing operations:

- (i) If the pollutants are brought on or to the premises, site or location in connection with such operations by such insured, contractor or subcontractor; or
- (ii) If the operations are to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of pollutants.

Subparagraph (d)(i) does not apply to "bodily injury" or "property damage" arising out of the escape of fuels, lubricants or other operating fluids which are needed to perform the normal electrical, hydraulic or mechanical functions necessary for the operation of "mobile equipment" or its parts, if such fuels, lubricants or other operating fluids escape from a vehicle part designed to hold, store or receive them. This exception does not apply if the fuels, lubricants or other operating fluids are intentionally discharged, dispersed or released, or if such fuels, lubricants or other operating fluids are brought on or to the premises, site or location with the intent to be discharged, dispersed or released as part of the operations being performed by such insured, contractor or subcontractor.

Subparagraphs (a) and (d)(i) do not apply to "bodily injury" or "property damage" arising out of heat, smoke or fumes from a hostile fire.

As used in this exclusion, a hostile fire means one which becomes uncontrollable or breaks out from where it was intended to be.

(2) Any loss, cost or expense arising out of any:

- (a) Request, demand or order that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of pollutants; or
- (b) Claim or "suit" by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in

any way responding to, or assessing the effects of pollutants.

Pollutants means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

g. Aircraft, Auto Or Watercraft

"Bodily injury" or "property damage" arising out of the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft owned or operated by or rented or loaned to any insured. Use includes operation and "loading or unloading."

This exclusion does not apply to:

- (1) A watercraft while ashore on premises you own or rent;
- (2) A watercraft you do not own that is:
 - (a) Less than 26 feet long; and
 - (b) Not being used to carry persons or property for a charge;
- (3) Parking an "auto" on, or on the ways next to, premises you own or rent, provided the "auto" is not owned by or rented or loaned to you or the insured;
- (4) Liability assumed under any "insured contract" for the ownership, maintenance or use of aircraft or watercraft; or
- (5) "Bodily injury" or "property damage" arising out of the operation of any of the following equipment:
 - (a) Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and
 - (b) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment.

h. Mobile Equipment

"Bodily injury" or "property damage" arising out of:

- (1) The transportation of "mobile equipment" by an "auto" owned or operated by or rented or loaned to any insured; or
- (2) The use of "mobile equipment" in, or while in practice for, or while being prepared for, any prearranged racing, speed, demolition or stunting activity.

i. War

"Bodily injury" or "property damage" due to war, whether or not declared, or any act or condition incident to war. War includes civil war, insurrection, rebellion or revolution. This exclusion applies only to liability assumed under a contract or agreement.

j. Professional Services

"Bodily injury," "property damage," "personal injury" or "advertising injury" due to rendering or failure to render any professional service. This includes but is not limited to:

- (1) Legal, accounting or advertising services;
- (2) Preparing, approving, or failing to prepare or approve maps, drawings, opinions, reports, surveys, change orders, designs or specifications;
- (3) Supervisory, inspection or engineering services;
- (4) Medical, surgical, dental, x-ray or nursing services treatment, advice or instruction;
- (5) Any health or therapeutic service treatment, advice or instruction;
- (6) Any service, treatment, advice or instruction for the purpose of appearance or skin enhancement, hair removal or replacement or personal grooming;
- (7) Optometry or optical or hearing aid services including the prescribing, preparation, fitting, demonstration or distribution of ophthalmic lenses and similar products or hearing aid devices;
- (8) Body piercing services; and
- (9) Services in the practice of pharmacy; but this exclusion does not apply to an insured whose operations include those of a retail druggist or drugstore.

k. Damage To Property

"Property damage" to:

- (1) Property you own, rent or occupy;
- (2) Premises you sell, give away or abandon, if the "property damage" arises out of any part of those premises;
- (3) Property loaned to you;
- (4) Personal property in the care, custody or control of the insured;
- (5) That particular part of real property on which you or any contractor or

subcontractor working directly or indirectly on your behalf is performing operations, if the "property damage" arises out of those operations; or

- (6) That particular part of any property that must be restored, repaired or replaced because "your work" was incorrectly performed on it.

Paragraph (2) of this exclusion does not apply if the premises are "your work" and were never occupied, rented or held for rental by you.

Paragraphs (3), (4), (5) and (6) of this exclusion do not apply to liability assumed under a sidetrack agreement.

Paragraph (6) of this exclusion does not apply to "property damage" included in the "products-completed operations hazard."

l. Damage To Your Product

"Property damage" to "your product" arising out of it or any part of it.

m. Damage To Your Work

"Property damage" to "your work" arising out of it or any part of it and included in the "products-completed operations hazard."

This exclusion does not apply if the damaged work or the work out of which the damage arises was performed on your behalf by a subcontractor.

n. Damage To Impaired Property Or Property Not Physically Injured

"Property damage" to "impaired property" or property that has not been physically injured, arising out of:

- (1) A defect, deficiency, inadequacy or dangerous condition in "your product" or "your work"; or
- (2) A delay or failure by you or anyone acting on your behalf to perform a contract or agreement in accordance with its terms.

This exclusion does not apply to the loss of use of other property arising out of sudden and accidental physical injury to "your product" or "your work" after it has been put to its intended use.

o. Recall Of Products, Work Or Impaired Property

Damages claimed for any loss, cost or expense incurred by you or others for the loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of:

- (1) "Your product;"

- (2) "Your work;" or
- (3) "Impaired property;"

if such product, work or property is withdrawn or recalled from the market or from use by any person or organization because of a known or suspected defect, deficiency, inadequacy or dangerous condition in it.

p. Personal Or Advertising Injury

"Personal injury" or "advertising injury":

- (1) Arising out of oral or written publication of material, if done by or at the direction of the insured with knowledge of its falsity;
- (2) Arising out of oral or written publication of material whose first publication took place before the beginning of the policy period;
- (3) Arising out of the willful violation of a penal statute or ordinance committed by or with the consent of the insured;
- (4) For which the insured has assumed liability in a contract or agreement. This exclusion does not apply to liability for damages that the insured would have in the absence of the contract or agreement; or
- (5) Arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of pollutants at any time.
- (6) With respect to any loss, cost or expense arising out of any:
 - (a) Request, demand or order that any insured or others test for, monitor, clean-up, remove, contain, treat, detoxify or neutralize or in any way respond to, or assess the effects of pollutants; or
 - (b) Claim or suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing or in any way responding to, or assessing the effects of pollutants.

Pollutants means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

q. Advertising Injury

"Advertising injury" arising out of:

- (1) Breach of contract, other than misappropriation of advertising ideas under an implied contract;
- (2) The failure of goods, products or services to conform with advertised quality or performance;
- (3) The wrong description of the price of goods, products or services; or
- (4) An offense committed by an insured whose business is advertising, broadcasting, publishing or telecasting.

Exclusions **c., d., e., f., g., h., i., k., l., m., n.** and **o.** do not apply to damage by fire or explosion to premises rented to you, or temporarily occupied by you with permission of the owner. A separate Limit of Insurance applies to this coverage as described in Section **D.**, Limits of Insurance.

2. Applicable to Medical Expenses Coverage

We will not pay expenses for "bodily injury":

- a. To any insured.
- b. To a person hired to do work for or on behalf of any insured or a tenant of any insured.
- c. To a person injured on that part of premises you own or rent that the person normally occupies.
- d. To a person, whether or not an "employee" of any insured, if benefits for the "bodily injury" are payable or must be provided under a workers' compensation or disability benefits law or a similar law.
- e. To a person injured while taking part in athletics.
- f. Included within the "products-completed operations hazard".
- g. Excluded under Business Liability Coverage.
- h. Due to war, whether or not declared, or any act or condition incident to war. War includes civil war, insurrection, rebellion or revolution.

3. Applicable to Both Business Liability Coverage and Medical Expenses Coverage - Nuclear Energy Liability Exclusion

This insurance does not apply:

- a. Under Business Liability Coverage, to "bodily injury" or "property damage":
- (1) With respect to which an insured under the policy is also an insured under a nuclear energy liability policy issued by Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters

or Nuclear Insurance Association of Canada, or would be an insured under any such policy but for its termination upon exhaustion of its limit of liability; or

- (2) Resulting from the "hazardous properties" of "nuclear material" and with respect to which:
 - (a) Any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof; or
 - (b) The insured is, or had this policy not been issued would be, entitled to indemnity from the United States of America, or any agency thereof, under any agreement entered into by the United States of America, or any agency thereof, with any person or organization.
- b. Under Medical Expenses Coverage, to expenses incurred with respect to "bodily injury" resulting from the "hazardous properties" of "nuclear material" and arising out of the operation of a "nuclear facility" by any person or organization.
- c. Under Business Liability Coverage, to "bodily injury" or "property damage" resulting from the "hazardous properties" of the "nuclear material"; if:
 - (1) The "nuclear material":
 - (a) Is at any "nuclear facility" owned by, or operated by or on behalf of, an insured; or
 - (b) Has been discharged or dispersed therefrom;
 - (2) The "nuclear material" is contained in "spent fuel" or "waste" at any time possessed, handled, used, processed, stored, transported or disposed of by or on behalf of an insured; or
 - (3) The "bodily injury" or "property damage" arises out of the furnishing by an insured of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any "nuclear facility"; but if such facility is located within the United States of America, its territories or possessions or Canada, this Exclusion (3) applies only to "property damage" to such "nuclear facility" and any property thereat.

As used in this exclusion:

"Byproduct material" has the meaning given it in the Atomic Energy Act of 1954 or in any law amendatory thereof;

"Hazardous properties" include radioactive, toxic or explosive properties;

"Nuclear facility" means:

- (a) Any "nuclear reactor";
- (b) Any equipment or device designed or used for:
 - (1) Separating the isotopes of uranium or plutonium;
 - (2) Processing or utilizing "spent fuel"; or
 - (3) Handling, processing or packaging "waste";
- (c) Any equipment or device used for the processing, fabricating or alloying of "special nuclear material" if at any time the total amount of such material in the custody of the insured at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235;
- (d) Any structure, basin, excavation, premises or place prepared or used for the storage or disposal of "waste";

and includes the site on which any of the foregoing is located, all operations conducted on such site and all premises used for such operations;

"Nuclear material" means "source material", "special nuclear material" or "byproduct material";

"Nuclear reactor" means any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of fissionable material;

"Property damage" includes all forms of radioactive contamination of property.

"Source material" has the meaning given it in the Atomic Energy Act of 1954 or in any law amendatory thereof;

"Special nuclear material" has the meaning given it in the Atomic Energy Act of 1954 or in any law amendatory thereof;

"Spent fuel" means any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a "nuclear reactor";

"Waste" means any waste material:

- (a) Containing "by-product material" other than the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its "source material" content; and
- (b) Resulting from the operation by any person or organization of any "nuclear facility" included under Paragraphs (a) and (b) of the definition of "nuclear facility."

C. Who Is An Insured

1. If you are designated in the Declarations as:
 - a. An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.
 - b. A partnership or joint venture, you are an insured. Your members, your partners and their spouses are also insureds, but only with respect to the conduct of your business.
 - c. A limited liability company, you are an insured. Your members are also insureds, but only with respect to the conduct of your business. Your managers are insureds, but only with respect to their duties as your managers.
 - d. An organization other than a partnership, joint venture or limited liability company, you are an insured. Your "executive officers" and directors are insureds, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.
2. Each of the following is also an insured:
 - a. Your "employees", other than either your "executive officers" (if you are an organization other than a partnership, joint venture or limited liability company) or your managers (if you are a limited liability company), but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business. However, none of these "employees" is an insured for:
 - (1) "Bodily injury" or "personal injury":
 - (a) To you, to your partners or members (if you are a partnership or joint venture), to your members (if you are a limited liability company), or to a co-"employee" while that co-"employee" is either in the course of his or her employment or performing duties related to the conduct of your business;

- (b) To the spouse, child, parent, brother or sister of that co-"employee" as a consequence of Paragraph (1)(a) above;
- (c) For which there is any obligation to share damages with or repay someone else who must pay damages of the injury described in Paragraphs (1)(a) or (1)(b); or
- (d) Arising out of his or her providing or failing to provide professional health care services. However, if you have "employees" who are pharmacists in your retail druggist or drugstore operation, they are insured with respect to their providing or failing to provide professional health care services; or

(2) "Property damage" to property:

- (a) Owned, occupied or used by,
- (b) Rented to, in the care, custody or control of, or over which physical control is being exercised for any purpose by you, any of your "employees", any partner or member (if you are a partnership or joint venture), or any member (if you are a limited liability company).
- b. Any person (other than your "employee"), or any organization while acting as your real estate manager.
- c. Any person or organization having proper temporary custody of your property if you die, but only:
 - (1) With respect to liability arising out of the maintenance or use of that property; and
 - (2) Until your legal representative has been appointed.
- d. Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this policy.
- 3. With respect to "mobile equipment" registered in your name under any motor vehicle registration law, any person is an insured while driving such equipment along a public highway with your permission. Any other person or organization responsible for the conduct of such person is also an insured, but only with respect to liability arising out of the operation of the equipment, and only if no other insurance of any kind is available to that person or organization for this liability. However, no person or organization is an insured with respect to:

- a. "Bodily injury" to a co-"employee" of the person driving the equipment; or
- b. "Property damage" to property owned by, rented to, in the charge of or occupied by you or the employer of any person who is an insured under this provision.

No person or organization is an insured with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a Named Insured in the Declarations.

D. Liability And Medical Expenses Limits Of Insurance

1. The Limits of Insurance shown in the Declarations and the rules below fix the most we will pay regardless of the number of:
 - a. Insureds;
 - b. Claims made or "suits" brought; or
 - c. Persons or organizations making claims or bringing "suits."
2. The most we will pay for the sum of all damages because of all:
 - a. "Bodily injury", "property damage" and medical expenses arising out of any one "occurrence"; and
 - b. "Personal injury" and "advertising injury" sustained by any one person or organization;

is the Liability and Medical Expenses limit shown in the Declarations. But the most we will pay for all medical expenses because of "bodily injury" sustained by any one person is the Medical Expenses limit shown in the Declarations.

3. The most we will pay under Business Liability Coverage for damages because of "property damage" to premises while rented to you or temporarily occupied by you with permission of the owner, arising out of any one fire or explosion is the Fire Legal Liability limit shown in the Declarations.

4. Aggregate Limits

The most we will pay for:

- a. Injury or damage under the "products-completed operations hazard" arising from all "occurrences" during the policy period is the Liability and Medical Expenses limit; and
- b. All other injury or damage, including medical expenses, arising from all "occurrences" during the policy period is twice the Liability and Medical Expenses limit. This limitation does not apply to "property damage" to premises while rented to you or temporarily occupied by you with permission of the owner, arising out of fire or explosion.

The Limits of Insurance of this policy apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits of Insurance.

E. Liability And Medical Expenses General Conditions

1. Bankruptcy

Bankruptcy or insolvency of the insured or of the insured's estate will not relieve us of our obligations under this policy.

2. Duties in The Event Of Occurrence, Offense, Claim Or Suit.

- a. You must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim. To the extent possible, notice should include:
 - (1) How, when and where the "occurrence" or offense took place;
 - (2) The names and addresses of any injured persons and witnesses; and
 - (3) The nature and location of any injury or damage arising out of the "occurrence" or offense.
- b. If a claim is made or "suit" is brought against any insured, you must:
 - (1) Immediately record the specifics of the claim or "suit" and the date received; and
 - (2) Notify us as soon as practicable.

You must see to it that we receive written notice of the claim or "suit" as soon as practicable.
- c. You and any other involved insured must:
 - (1) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the claim or "suit";
 - (2) Authorize us to obtain records and other information;
 - (3) Cooperate with us in the investigation or settlement of the claim or defense against the "suit"; and
 - (4) Assist us, upon our request, in the enforcement of any right against any person or organization that may be liable to the insured because of injury or damage to which this insurance may also apply.
- d. No insured will, except at that insured's own cost, voluntarily make a payment,

assume any obligation, or incur any expense, other than for first aid, without our consent.

3. Financial Responsibility Laws

- a. When this policy is certified as proof of financial responsibility for the future under the provisions of any motor vehicle financial responsibility law, the insurance provided by the policy for "bodily injury" liability and "property damage" liability will comply with the provisions of the law to the extent of the coverage and limits of insurance required by that law.
- b. With respect to "mobile equipment" to which this insurance applies, we will provide any liability, uninsured motorists, underinsured motorists, no-fault or other coverage required by any motor vehicle law. We will provide the required limits for those coverages.

4. Legal Action Against Us

No person or organization has a right under this policy:

- a. To join us as a party or otherwise bring us into a "suit" asking for damages from an insured; or
- b. To sue us on this policy unless all of its terms have been fully complied with.

A person or organization may sue us to recover on an agreed settlement or on a final judgment against an insured obtained after an actual trial; but we will not be liable for damages that are not payable under the terms of this policy or that are in excess of the applicable limit of insurance. An agreed settlement means a settlement and release of liability signed by us, the insured and the claimant or the claimant's legal representative.

5. Separation Of Insureds

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in this policy to the first Named Insured, this insurance applies:

- a. As if each Named Insured were the only Named Insured; and
- b. Separately to each insured against whom claim is made or "suit" is brought.

F. Liability And Medical Expenses Definitions

1. "Advertising Injury" means injury arising out of one or more of the following offenses:
 - a. Oral or written publication of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services;

- b. Oral or written publication of material that violates a person's right of privacy;
- c. Misappropriation of advertising ideas or style of doing business; or
- d. Infringement of copyright, title or slogan.

2. "Auto" means a land motor vehicle, trailer or semitrailer designed for travel on public roads, including any attached machinery or equipment. But "auto" does not include "mobile equipment".
3. "Bodily Injury" means bodily injury, sickness or disease sustained by a person, including death resulting from any of these at any time.
4. "Coverage Territory" means:
 - a. The United States of America (including its territories and possessions), Puerto Rico and Canada;
 - b. International waters or airspace, provided the injury or damage does not occur in the course of travel or transportation to or from any place not included in a. above; or
 - c. All parts of the world if:
 - (1) The injury or damage arises out of:
 - (a) Goods or products made or sold by you in the territory described in a. above; or
 - (b) The activities of a person whose home is in the territory described in a. above, but is away for a short time on your business; and
 - (2) The insured's responsibility to pay damages is determined in a "suit" on the merits in the territory described in a. above or in a settlement we agree to.
5. "Employee" includes a "leased worker". "Employee" does not include a "temporary worker".
6. "Executive officer" means a person holding any of the officer positions created by your charter, constitution, by-laws or any other similar governing document.
7. "Impaired Property" means tangible property, other than "your product" or "your work", that cannot be used or is less useful because:
 - a. It incorporates "your product" or "your work" that is known or thought to be defective, deficient, inadequate or dangerous; or
 - b. You have failed to fulfill the terms of a contract or agreement;

if such property can be restored to use by:

- (1) The repair, replacement, adjustment or removal of "your product" or "your work"; or
- (2) Your fulfilling the terms of the contract or agreement.

8. "Insured contract" means:

- a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire to premises while rented to you or temporarily occupied by you with permission of the owner is not an "insured contract";
- b. A sidetrack agreement;
- c. Any easement or license agreement except in connection with construction or demolition operations on or within 50 feet of a railroad;
- d. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
- e. An elevator maintenance agreement;
- f. That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another party to pay for "bodily injury" or "property damage" to a third person or organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

Paragraph f. does not include that part of any contract or agreement:

- (a) That indemnifies a railroad for "bodily injury" or "property damage" arising out of construction or demolition operations, within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road beds, tunnel, underpass or crossing;
- (b) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:
 - (a) Preparing, approving or failing to prepare or approve maps, drawings, opinions, reports, surveys, change orders, designs or specifications; or
 - (b) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage; or

- (c) Under which the insured, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insured's rendering or failing to render professional services, including those listed in (2) above and supervisory, inspection or engineering services.

9. "Leased worker" means a person leased to you by a labor leasing firm under an agreement between you and the labor leasing firm, to perform duties related to the conduct of your business. "Leased worker" does not include a "temporary worker".

10. "Loading or unloading" means the handling of property:

- a. After it is moved from the place where it is accepted for movement into or onto an aircraft, watercraft or "auto";
- b. While it is in or on an aircraft, watercraft or "auto"; or
- c. While it is being moved from an aircraft, watercraft or "auto" to the place where it is finally delivered;

but "loading or unloading" does not include the movement of property by means of a mechanical device, other than a hand truck, that is not attached to the aircraft, watercraft or "auto".

11. "Mobile Equipment" means any of the following types of land vehicles, including any attached machinery or equipment:

- a. Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;
- b. Vehicles maintained for use solely on or next to premises you own or rent;
- c. Vehicles that travel on crawler treads;
- d. Vehicles, whether self-propelled or not, on which are permanently mounted:
 - (1) Power cranes, shovels, loaders, diggers or drills; or
 - (2) Road construction or resurfacing equipment such as graders, scrapers or rollers;
- e. Vehicles not described in a., b., c. or d. above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:
 - (1) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment; or
 - (2) Cherry pickers and similar devices used to raise or lower workers;

f. Vehicles not described in **a.**, **b.**, **c.** or **d.** above maintained primarily for purposes other than the transportation of persons or cargo.

However, self-propelled vehicles with the following types of permanently attached equipment are not "mobile equipment" but will be considered "autos":

- (1) Equipment designed primarily for:
 - (a) Snow removal;
 - (b) Road maintenance, but not construction or resurfacing; or
 - (c) Street cleaning;
- (2) Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and
- (3) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment.

12. "Occurrence" means an accident, including continuous or repeated exposure to substantially the same general harmful conditions.

13. "Personal Injury" means injury, other than "bodily injury", arising out of one or more of the following offenses:

- a. False arrest, detention or imprisonment;
- b. Malicious prosecution;
- c. The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that a person occupies, by or on behalf of its owner, landlord or lessor;
- d. Oral or written publication of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services; or
- e. Oral or written publication of material that violates a person's right of privacy.

14. "Products - completed operations hazard":

- a. Includes all "bodily injury" and "property damage" occurring away from premises you own or rent and arising out of "your product" or "your work" except:
 - (1) Products that are still in your physical possession; or
 - (2) Work that has not yet been completed or abandoned. However, "your work" will be deemed completed at the earliest of the following times:

- (a) When all of the work called for in your contract has been completed.
- (b) When all of the work to be done at the job site has been completed if your contract calls for work at more than one job site.
- (c) When that part of the work done at the job site has been put to its intended use by any other person or organization other than another contractor or subcontractor working on the same project.

Work that may need service, maintenance, correction, repair or replacement, but which is otherwise complete, will be treated as completed.

The "bodily injury" or "property damage" must occur away from premises you own or rent, unless your business includes the selling, handling or distribution of "your product" for consumption on premises you own or rent.

b. Does not include "bodily injury" or "property damage" arising out of:

- (1) The transportation of property, unless the injury or damage arises out of a condition in or on a vehicle not owned or operated by you, and that condition was created by the "loading or unloading" of that vehicle by any insured; or
- (2) The existence of tools, uninstalled equipment or abandoned or unused materials.

15. "Property damage" means:

- a. Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it; or
- b. Loss of use of tangible property that is not physically injured. All such loss of use shall be deemed to occur at the time of the "occurrence" that caused it.

16. "Suit" means a civil proceeding in which damages because of "bodily injury", "property damage", "personal injury" or "advertising injury" to which this insurance applies are alleged. "Suit" includes:

- a. An arbitration proceeding in which such damages are claimed and to which the insured must submit or does submit with our consent; or
- b. Any other alternative dispute resolution proceeding in which such damages are

claimed and to which the insured submits with our consent.

17. "Temporary worker" means a person who is furnished to you to substitute for a permanent "employee" on leave or to meet seasonal or short-term workload conditions.

18. "Your product" means:

a. Any goods or products, other than real property, manufactured, sold, handled, distributed or disposed of by:

- (1) You;
- (2) Others trading under your name; or
- (3) A person or organization whose business or assets you have acquired; and

b. Containers (other than vehicles), materials, parts or equipment furnished in connection with such goods or products.

"Your product" includes:

a. Warranties or representations made at any time with respect to the fitness,

quality, durability, performance or use of "your product;" and

b. The providing of or failure to provide warnings or instructions.

"Your product" does not include vending machines or other property rented to or located for the use of others but not sold.

19. "Your work" means:

a. Work or operations performed by you or on your behalf; and

b. Materials, parts or equipment furnished in connection with such work or operations.

"Your work" includes:

a. Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your work;" and

b. The providing of or failure to provide warnings or instructions.

BUSINESSOWNERS COMMON POLICY CONDITIONS

All coverages of this policy are subject to the following conditions.

A. Cancellation

1. The first Named Insured shown in the Declarations may cancel this policy by mailing or delivering to us advance written notice of cancellation.
2. We may cancel this policy by mailing or delivering to the first Named Insured written notice of cancellation at least:
 - a. 5 days before the effective date of cancellation if any one of the following conditions exists at any building that is Covered Property in this policy.
 - (1) The building has been vacant or unoccupied 60 or more consecutive days. This does not apply to:
 - (a) Seasonal unoccupancy; or
 - (b) Buildings in the course of construction, renovation or addition.
 - (2) After damage by a covered cause of loss, permanent repairs to the building:
 - (a) Have not started, and
 - (b) Have not been contracted for, within 30 days of initial payment of loss.
 - (3) The building has:
 - (a) An outstanding order to vacate;
 - (b) An outstanding demolition order; or
 - (c) Been declared unsafe by governmental authority.
 - (4) Fixed and salvageable items have been or are being removed from the building and are not being replaced. This does not apply to such removal that is necessary or incidental to any renovation or remodeling.
 - (5) Failure to:
 - (a) Furnish necessary heat, water, sewer service or electricity for 30 consecutive days or more, except during a period of seasonal unoccupancy; or

(b) Pay property taxes that are owing and have been outstanding for more than one year following the date due, except that this provision will not apply where you are in a bona fide dispute with the taxing authority regarding payment of such taxes.

- b. 10 days before the effective date of cancellation if we cancel for nonpayment of premium.
- c. 30 days before the effective date of cancellation if we cancel for any other reason.
3. We will mail or deliver our notice to the first Named Insured's last mailing address known to us.
4. Notice of cancellation will state the effective date of cancellation. The policy period will end on that date.
5. If this policy is cancelled, we will send the first Named Insured any premium refund due. If we cancel, the refund will be pro rata. If the first Named Insured cancels, the refund may be less than pro rata. The cancellation will be effective even if we have not made or offered a refund.
6. If notice is mailed, proof of mailing will be sufficient proof of notice.

B. Changes

This policy contains all the agreements between you and us concerning the insurance afforded. The first Named Insured shown in the Declarations is authorized to make changes in the terms of this policy with our consent. This policy's terms can be amended or waived only by endorsement issued by us and made a part of this policy.

C. Concealment, Misrepresentation Or Fraud

This policy is void in any case of fraud by you as it relates to this policy at any time. It is also void if you or any other insured, at any time, intentionally conceal or misrepresent a material fact concerning:

1. This policy;
2. The Covered Property;
3. Your interest in the Covered Property; or
4. A claim under this policy.

D. Examination Of Your Books And Records

We may examine and audit your books and records as they relate to this policy at any time dur-

ing the policy period and up to three years afterward.

E. Inspections And Surveys

We have the right but are not obligated to:

1. Make inspections and surveys at any time;
2. Give you reports on the conditions we find; and
3. Recommend changes.

Any inspections, surveys, reports or recommendations relate only to insurability and the premiums to be charged. We do not make safety inspections. We do not undertake to perform the duty of any person or organization to provide for the health or safety of workers or the public. And we do not warrant that conditions:

1. Are safe or healthful; or
2. Comply with laws, regulations, codes or standards.

This condition applies not only to us, but also to any rating, advisory, rate service or similar organization which makes insurance inspections, surveys, reports or recommendations.

F. Insurance Under Two Or More Coverages

If two or more of this policy's coverages apply to the same loss or damage, we will not pay more than the actual amount of the loss or damage.

G. Liberalization

If we adopt any revision that would broaden the coverage under this policy without additional premium within 45 days prior to or during the policy period, the broadened coverage will immediately apply to this policy.

H. Other Insurance

1. If there is other insurance covering the same loss or damage, we will pay only for the amount of covered loss or damage in excess of the amount due from that other insurance, whether you can collect on it or not. But we will not pay more than the applicable Limit of Insurance.
2. Business Liability Coverage is excess over any other insurance that insures for direct physical loss or damage.
3. When this insurance is excess, we will have no duty under Business Liability Coverage to defend any claim or "suit" that any other insurer has a duty to defend. If no other insurer defends, we will undertake to do so; but we will be entitled to the insured's rights against all those other insurers.

I. Premiums

1. The first Named Insured shown in the Declarations:
 - a. Is responsible for the payment of all premiums; and

- b. Will be the payee for any return premiums we pay.

2. The premium shown in the Declarations was computed based on rates in effect at the time the policy was issued. On each renewal continuation or anniversary of the effective date of this policy, we will compute the premium in accordance with our rates and rules then in effect.
3. With our consent, you may continue this policy in force by paying a continuation premium for each successive one-year period. The premium must be:
 - a. Paid to us prior to the anniversary date; and
 - b. Determined in accordance with Paragraph 2. above.

Our forms then in effect will apply. If you do not pay the continuation premium, this policy will expire on the first anniversary date that we have not received the premium.

4. Undeclared exposures or change in your business operation, acquisition or use of locations may occur during the policy period that are not shown in the Declarations. If so, we may require an additional premium. That premium will be determined in accordance with our rates and rules then in effect.

J. Premium Audit

1. This policy is subject to audit if a premium designated as an advance premium is shown in the Declarations. We will compute the final premium due when we determine your actual exposures.
2. Premium shown in this policy as advance premium is a deposit premium only. At the close of each audit period we will compute the earned premium for that period. Audit premiums are due and payable on notice to the first Named Insured. If the sum of the advance and audit premiums paid for the policy period is greater than the earned premium, we will return the excess to the first Named Insured.
3. The first Named Insured must keep records of the information we need for premium computation, and send us copies at such times as we may request.

K. Transfer Of Rights Of Recovery Against Others To Us

1. Applicable to Businessowners Property Coverage:

If any person or organization to or for whom we make payment under this policy has rights to recover damages from another, those rights are transferred to us to the extent of our payment. That person or organization must do everything necessary to secure our rights

and must do nothing after loss to impair them. But you may waive your rights against another party in writing:

- a. Prior to a loss to your Covered Property.
- b. After a loss to your Covered Property only if, at time of loss, that party is one of the following:
 - (1) Someone insured by this insurance;
 - (2) A business firm:
 - (a) Owned or controlled by you; or
 - (b) That owns or controls you; or
 - (3) Your tenant.

You may also accept the usual bills of lading or shipping receipts limiting the liability of carriers.

This will not restrict your insurance.

2. Applicable to Businessowners Liability Coverage:

If the insured has rights to recover all or part of any payment we have made under this policy, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them. This condition does not apply to Medical Expenses Coverage.

L. Transfer Of Your Rights And Duties Under This Policy

Your rights and duties under this policy may not be transferred without our written consent except in the case of death of an individual Named Insured.

If you die, your rights and duties will be transferred to your legal representative but only while acting within the scope of duties as your legal representative. Until your legal representative is appointed, anyone having proper temporary custody of your property will have your rights and duties but only with respect to that property.

POLICY NUMBER:

BUSINESS OWNERS
BP 01 51 01 97

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**NEW YORK CHANGES - TRANSFER OF
DUTIES WHEN A LIMIT OF INSURANCE IS USED UP**

This endorsement modifies insurance provided under the following:

BUSINESS OWNERS LIABILITY COVERAGE FORM

The following condition is added to LIABILITY AND MEDICAL EXPENSES GENERAL CONDITIONS:

Transfer of Duties When a Limit of Insurance is Used Up.

a. If we conclude that, based on "occurrences," offenses, claims or "suits" which have been reported to us and to which this insurance may apply, the:

- (1) Liability and Medical Expenses Limit;
- (2) Medical Expenses Limit; or
- (3) Fire and Legal Liability Limit;

is likely to be used up in the payment of judgments or settlements, we will notify the first Named Insured, in writing, to that effect.

b. When a limit of insurance described in paragraph a. above has actually been used up in the payment of judgments or settlements:

- (1) We will notify the first Named Insured, in writing, as soon as practicable, that:
 - (a) Such a limit has actually been used up; and
 - (b) Our duty to defend "suits" seeking damages subject to that limit has also ended.

- (2) We will initiate, and cooperate in, the transfer of control, to any appropriate insured, of all claims and "suits" seeking damages which are subject to that limit and which are reported to us before that limit is used up. That insured must cooperate in the transfer of control of said claims and "suits".

We agree to take such steps, as we deem appropriate, to avoid a default in, or continue

the defense of, such "suits" until such transfer is completed, provided the appropriate insured is cooperating in completing such transfer.

We will take no action whatsoever with respect to any claim or "suit" seeking damages that would have been subject to that limit, had it not been used up, if the claim or "suit" is reported to us after that limit of insurance has been used up.

(3) The first Named Insured, and any other insured involved in a "suit" seeking damages subject to that limit, must arrange for the defense of such "suit" within such time period as agreed to between the appropriate insured and us. Absent any such agreement, arrangements for the defense of such "suit" must be made as soon as practicable.

c. The first Named Insured will reimburse us for expenses we incur in taking those steps we deem appropriate in accordance with paragraph b.(2).

The duty of the first Named Insured to reimburse us will begin on:

- (1) The date on which the applicable limit of insurance is used up, if we sent notice in accordance with paragraph a.; or

- (2) The date on which we sent notice in accordance with paragraph b.(1), if we did not send notice in accordance with paragraph a.

d. The exhaustion of any limit of insurance by the payments of judgments or settlements, and the resulting end of our duty to defend, will not be affected by our failure to comply with any of the provisions of this Condition.

BUSINESSOWNERS
BP 04 17 01 96**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.****EMPLOYMENT-RELATED PRACTICES EXCLUSION**

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS POLICYThe following exclusion is added to Section **B. EXCLUSIONS** of the Businessowners Liability Coverage Form:

This insurance does not apply to:

1. "Bodily injury" or "personal injury" to:

- a. A person arising out of any:
 - (1) Refusal to employ that person;
 - (2) Termination of that person's employment; or
 - (3) Employment-related practices, policies, acts or omissions, such as coercion, demotion, evaluation, reassignment, discipline, defamation, harassment,

humiliation or discrimination directed at that person; or

- b. The spouse, child, parent, brother or sister of that person as a consequence of "bodily injury" or "personal injury" to that person at whom any of the employment-related practices described in paragraphs (1), (2) or (3) above is directed.

This exclusion applies:

- a. Whether the insured may be liable as an employer or in any other capacity; and
- b. To any obligation to share damages with or repay someone else who must pay damages because of the injury.

BP 04 17 01 96

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POLICY NUMBER:

BUSINESSOWNERS

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**AMENDMENT - LIQUOR LIABILITY EXCLUSION**

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS POLICYUnder Section **B. EXCLUSIONS** in the Businessowners Liability Coverage Form, exclusion 1.c. is replaced by the following exclusion:

This insurance does not apply to "bodily injury" or "property damage" for which any insured may be held liable by reason of:

- a. Causing or contributing to the intoxication of any person;
- b. The furnishing of alcoholic beverages to a person under the legal drinking age or under the influence of alcohol; or
- c. Any statute, ordinance or regulation relating to the sale, gift, distribution or use of alcoholic beverages.

This exclusion applies only if you:

- (1) Manufacture, sell or distribute alcoholic beverages;
- (2) Serve or furnish alcoholic beverages for a charge whether or not such activity:
 - (a) requires a license;
 - (b) is for this purpose of financial gain or livelihood; or
- (3) Serve or furnish alcoholic beverages without a charge, if a license is required for such activity.

BP 04 18 06 89

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BUSINESS OWNERS
BP 07 02 01 97

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**AMENDMENT - AGGREGATE LIMITS OF
INSURANCE (PER PROJECT)**

This endorsement modifies insurance provided under the following:

BUSINESS OWNERS POLICY

Under Paragraph **D. LIABILITY AND MEDICAL EXPENSES**
LIMITS OF INSURANCE in the Businessowners Liability Coverage Form, the limit of insurance for all injury or damage other than injury or damage under the

"products-completed operations hazard" applies separately to each of your projects away from premises owned by or rented to you.

BP 07 02 01 97

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IL 01 83 04 98

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

NEW YORK CHANGES - FRAUD

This endorsement modifies insurance provided under the following:

BOILER AND MACHINERY COVERAGE PART

BUSINESS OWNERS POLICY

COMMERCIAL AUTOMOBILE COVERAGE PART

COMMERCIAL INLAND MARINE COVERAGE PART

COMMERCIAL PROPERTY COVERAGE PART

FARM COVERAGE PART - FARM PROPERTY - OTHER FARM PROVISIONS FORM - ADDITIONAL COVERAGES, CONDITIONS, DEFINITIONS

FARM COVERAGE PART - MOBILE AGRICULTURAL MACHINERY AND EQUIPMENT COVERAGE FORM

FARM COVERAGE PART - LIVESTOCK COVERAGE FORM

The CONCEALMENT, MISREPRESENTATION OR FRAUD Condition is replaced by the following:

FRAUD

We do not provide coverage for any insured ("insured") who has made fraudulent statements or engaged in fraudulent conduct in connection with any loss ("loss") or damage for which coverage is sought under this policy.

However, with respect to insurance provided under the COMMERCIAL AUTOMOBILE COVERAGE PART, we will provide coverage to such "insured" for damages sustained by any person who has not made fraudulent statements or engaged in fraudulent conduct if such damages are otherwise covered under the policy.

IL 01 83 04 98

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Page 1 of 1

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

INTELLECTUAL PROPERTY LIABILITY - EXCLUSION

This endorsement modifies insurance provided under the following:

BUSINESS OWNERS LIABILITY COVERAGE FORM
COMMERCIAL GENERAL LIABILITY COVERAGE FORM
COMMERCIAL UMBRELLA POLICY

The following exclusion is added:

Any "suit" seeking damages (whether valid or invalid) arising, in whole or in part, out of any allegation of infringement or violation of copyright, patent, trademark or other intellectual property law, and

"bodily injury," "property damage," "personal injury" or "advertising injury" arising, in whole or in part out of any infringement or violation of copyright, patent, trademark or other intellectual property law.

64-5869 (11/00)

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

NEW YORK CHANGES

This endorsement modifies insurance provided under the following:

BUSINESS OWNERS POLICY

The provisions of Paragraphs **A.**, **B.**, **C.** and **D.** apply unless Paragraph **E.** applies.

A. Paragraphs **1.**, **2.**, **3.** and **5.** of the **Cancellation** Common Policy Condition are replaced by the following:

1. The first Named Insured shown in the Declarations may cancel this entire policy by mailing or delivering to us advance written notice of cancellation.

2. Cancellation Of Policies In Effect

a. 60 Days Or Less

We may cancel this policy by mailing or delivering to the first Named Insured written notice of cancellation at least:

(1) 30 days before the effective date of cancellation if we cancel for any reason not included in Paragraph (2) below.

(2) 15 days before the effective date of cancellation if we cancel for any of the following reasons:

(a) Nonpayment of premium provided however, that a notice of cancellation on this ground shall inform the first Named Insured of the amount due;

(b) Conviction of a crime arising out of acts increasing the hazard insured against;

(c) Discovery of fraud or material misrepresentation in the obtaining of the policy or in the presentation of a claim;

(d) After issuance of the policy or after the last renewal date, discovery of an act or omission, or a violation of any policy condition, that substantially and materially increases the hazard insured against, and which occurred subsequent to inception of the current policy period;

(e) Material physical change in the property insured, occurring after issuance or last annual renewal anniversary date of the policy, which results in the property becoming uninsurable in accordance with our objective, uniformly applied underwriting standards in effect at the time the policy was issued or last renewed; or material change in the nature or extent of the risk,

occurring after issuance or last annual renewal anniversary date of the policy, which causes the risk of loss to be substantially and materially increased beyond that contemplated at the time the policy was issued or last renewed;

(f) Required pursuant to a determination by the Superintendent that the continuation of our present premium volume would jeopardize our solvency or be hazardous to the interest of our policyholders, our creditors or the public;

(g) A determination by the Superintendent that the continuation of the policy would violate, or would place us in violation of, any provision of the Insurance Code; or

(h) Where we have reason to believe, in good faith and with sufficient cause, that there is a probable risk of danger that the insured will destroy, or permit to be destroyed, the insured property for the purpose of collecting the insurance proceeds. If we cancel for this reason, you may make a written request to the Insurance Department, within 10 days of receipt of this notice, to review our cancellation decision. Also, we will simultaneously send a copy of this cancellation notice to the Insurance Department.

b. For More Than 60 Days

If this policy has been in effect for more than 60 days, or if this policy is a renewal or continuation of a policy we issued, we may cancel only for any of the reasons listed in Paragraph a.(2) above, provided:

(1) We mail the first Named Insured written notice at least 15 days before the effective date of cancellation; and

(2) If we cancel for nonpayment of premium, our notice of cancellation informs the first Named Insured of the amount due.

3. We will mail or deliver our notice, including the reason for cancellation, to the first Named Insured at the address shown in the policy and the authorized agent or broker.

5. If this policy is cancelled, we will send the first Named Insured any premium refund due. If we cancel, the refund will be pro rata. If the first Named Insured cancels, the refund may be less than pro rata.

However, when the premium is advanced under a premium finance agreement, the cancellation refund will be pro rata. Under such financed policies, we will be entitled to retain a minimum earned premium of 10% of the total policy premium or \$60, whichever is greater. The cancellation will be effective even if we have not made or offered a refund.

B. The following is added to the **Cancellation** Common Policy Condition:

7. If one of the reasons for cancellation in Paragraph **A.2.a.(2)** or **F.2.b.(2)** exists, we may cancel this entire policy, even if the reason for cancellation pertains only to a new coverage or endorsement initially effective subsequent to the original issuance of this policy.

C. The following Conditions are added:

1. **Nonrenewal**

If we decide not to renew this policy we will send notice as provided in Paragraph **C.3.** below.

2. **Conditional Renewal**

If we condition renewal of this policy upon:

- Change of limits;
- Change in type of coverage;
- Reduction of coverage;
- Increased deductible;
- Addition of exclusion; or
- Increased premiums in excess of 10%, exclusive of any premium increase due to and commensurate with insured value added; or increased exposure units; or as a result of experience rating, loss rating, retrospective rating or audit;

we will send notice as provided in Paragraph **C.3.** below.

3. **Notices Of Nonrenewal And Conditional Renewal**

- If we decide not to renew this policy or to conditionally renew this policy as provided in paragraphs **C.1.** and **C.2.** above, we will mail or deliver written notice to the first Named Insured shown in the Declarations at least 60 but not more than 120 days before:

- The expiration date; or
- The anniversary date if this is a continuous policy.

- Notice will be mailed or delivered to the first Named Insured at the address shown in the policy and the authorized agent or broker. If notice is mailed, proof of mailing will be sufficient proof of notice.

- Notice will include the specific reason(s) for nonrenewal or conditional renewal, including the amount of any premium increase for conditional renewal and description of any other changes.

d. If we violate any of the provisions of paragraphs **C.3.a., b. or c.** above by sending the first Named Insured an incomplete or late conditional renewal notice or a late nonrenewal notice:

(1) Coverage will remain in effect at the same terms and conditions of this policy at the lower of the current rates or the prior period's rates until 60 days after such notice is mailed or delivered, unless the first Named Insured, during this 60 day period, has replaced the coverage or elects to cancel.

e. If you elect to renew on the basis of a late conditional renewal notice, the terms, conditions and rates set forth in such notice shall apply:

- Upon expiration of the 60 day period; or
- Notwithstanding the provisions in Paragraphs **d.(1)** and **d.(2)**, as of the renewal date of the policy if we send the first Named Insured the conditional renewal notice at least 30 days prior to the expiration or anniversary date of the policy.

f. We will not send you notice of nonrenewal or conditional renewal if you, your authorized agent or broker or another insurer of yours mails or delivers notice that the policy has been replaced or is no longer desired.

D. The following provisions apply to the Businessowners Liability Coverage Form:

- The aggregate limits of this policy as shown in the Declarations will be increased in proportion to any policy extension provided in accordance with paragraph **C.3.d.** above.

- The last sentence of Limit Of Insurance does not apply when the policy period is extended because we sent the first Named Insured an incomplete or late conditional renewal notice or a late nonrenewal notice.

E. If this policy covers buildings or structures containing 1 to 4 dwelling units, the provisions of Paragraphs **F.**, **G.** and **H.** of this endorsement apply.

F. Paragraph **2.** of the **Cancellation** Common Policy Condition is replaced by the following:

2. **Procedure and Reasons For Cancellation**

- We may cancel this entire policy by mailing or delivering to the first Named Insured written notice of cancellation at least:

- 15 days before the effective date of cancellation if we cancel for nonpayment of premium, provided however, that a notice of cancellation on this ground shall inform the first Named Insured of the amount due; or

- 30 days before the effective date of cancellation if we cancel for any other reason.

- But if this policy:

- (1) Has been in effect for more than 60 days; or
- (2) Is a renewal of a policy we issued: we may cancel this policy only for one or more of the following reasons:
 - (a) Nonpayment of premium provided however, that a notice of cancellation on this ground shall inform the first Named Insured of the amount due;
 - (b) Conviction of a crime arising out of acts increasing the risk of loss;
 - (c) Discovery of fraud or material misrepresentation in obtaining the policy or in making a claim;
 - (d) Discovery of willful or reckless acts or omissions increasing the risk of loss;
 - (e) Physical changes in the covered property that make that property uninsurable in accordance with our objective and uniformly applied underwriting standards in effect when we:
 - (i) Issued the policy, or
 - (ii) Last voluntarily renewed the policy;
 - (f) The Superintendent of Insurance's determination that continuing the policy would violate Chapter 28 of the Insurance Law; or
 - (g) Required pursuant to a determination by the Superintendent of Insurance that the continuation of our present premium volume would be hazardous to the interests of our policyholders, our creditors or the public.

G. Conditional Continuation

Instead of cancelling this policy, we may continue it on the condition that:

1. The policy limits be changed; or
2. Any coverage not required by law be eliminated.

If this policy is conditionally continued, we will mail or deliver to the first Named Insured written notice at least 20 days before the effective date of the change or elimination. We will mail or deliver our notice to the first Named Insured's last mailing address known to us. If notice is mailed, proof of mailing will be sufficient proof of notice. Delivery of the notice will be the same as mailing.

H. Nonrenewal

If, as allowed by the laws of New York State, we:

1. Do not renew this policy; or
2. Condition policy renewal upon:
 - a. Change of limits; or
 - b. Elimination of coverage;

we will mail or deliver written notice of nonrenewal or conditional renewal:

- (1) At least 45 days; but
- (2) Not more than 60 days;

before the expiration date of the policy. We will mail or deliver our notice to the first Named Insured's last mailing address known to us. If notice is mailed, proof of mailing will be sufficient proof of notice. Delivery of the notice will be the same as mailing.

I. The last subparagraph in paragraph 3. of the **Premiums** Common Policy Condition is replaced by the following:

Our forms then in effect will apply. If you do not pay the continuation premiums, this policy will be cancelled in accordance with the cancellation procedures for nonpayment of premium as amended in paragraph A. above.

J. The "Loading or Unloading" Liability And Medical Expenses Definition in the Businessowners Liability Coverage Form does not apply.

K. If this policy covers the interest of the owner of any of the following types of buildings or structures:

- (1) Residential (except 1 or 2 family buildings or structures);
- (2) Commercial; or
- (3) Industrial;

the following provision is added:

Before payment to you for loss or damage to the above buildings or structures caused by or resulting from fire, we will:

1. Deduct from your payment the claim of any tax district that issues a certificate of lien in accordance with the Insurance Law; and
2. Pay directly to the tax district the amount of the claim.

When we pay that claim, we will have no obligation to pay the amount of that claim to you. Our payment of that claim within 30 days of our receipt of the certificate of lien will be a conclusive presumption that the claim was valid and properly paid.

L. When the property is subject to the Anti-Arson Application in accordance with New York Insurance Department Regulation No. 96, the following provisions are added:

If you fail to return the completed, signed and affirmed anti-arson application to us:

1. Or our broker or agent within 45 days of the effective date of a new policy, we will cancel the entire policy by giving 20 days' written notice to you and to the mortgageholder shown in the Declarations.
2. Before the expiration date of any policy, we will cancel the policy by giving written notice to you and to the mortgageholder shown in

the Declarations at least 15 days before the effective date of cancellation.

If the notice in **L.1.** or **L.2.** above is mailed, proof of mailing will be sufficient proof of notice. Delivery of the notice will be the same as mailing.

The cancellation provisions set forth in **L.1.** and **L.2.** above supersedes any contrary provisions in this policy including this endorsement.

M. The following is added to:

1. The Duties In The Event Of Loss Or Damage Property Loss Condition in the Businessowners Property Coverage Form; and
2. The Duties In The Event Of Occurrence, Claim or Suit Liability And Medical Expenses General Condition in the Businessowners Liability Coverage Form:
 - a. Notice given by or on your behalf; or
 - b. Written notice by or on behalf of any claimant;

to any of our agents in New York State, which adequately identifies you, will be the same as notice to us.

N. Paragraphs **F.2.f.** and **F.2.g.** of the **Mortgageholders** Property General Condition are replaced by the following:

f. Cancellation

- (1) If we cancel this policy, we will give written notice to the mortgageholder at least:
 - (a) 10 days before the effective date of cancellation if we cancel for your nonpayment of premium; or
 - (b) 30 days before the effective date of cancellation if we cancel for any other reason.
- (2) If you cancel this policy, we will give written notice to the mortgageholder. With respect to the mortgageholder's interest only, cancellation will become effective on the later of:
 - (a) The effective date of cancellation of the insured's coverage; or
 - (b) 10 days after we give notice to the mortgageholder.

g. Nonrenewal

- (1) If we elect not to renew this policy, we will give written notice to the mortgageholder at least 10 days before the expiration date of this policy.
- (2) If you elect not to renew this policy, we will give written notice to the mortgageholder. With respect to the mortgageholder's interest only, nonrenewal will become effective on the later of:
 - (a) The expiration date of the policy; or
 - (b) 10 days after we give notice to the mortgageholder.

O. The **Legal Action Against Us Condition of Liability And Medical Expenses General Conditions** in the Businessowners Liability Coverage Form is replaced by the following:

4. Legal Action Against Us

No person or organization has a right under this policy:

- a. To join us as a party or otherwise bring us into a "suit" asking for damages from an insured; or
- b. To sue us on this policy unless all of its terms have been fully complied with.

A person or organization may sue us to recover on an agreed settlement or on a final judgment against an insured; but we will not be liable for damages that are not payable under the terms of this policy or that are in excess of the applicable limit of insurance. An agreed settlement means a settlement and a release of liability signed by us, the insured and the claimant or the claimant's legal representative.

P. Paragraph **J.2.** of the Businessowners Common Policy Condition is replaced by the following:

J. Premium Audit

2. Premium shown in this policy as advance premium is a deposit premium only. At the close of each audit period we will compute the earned premium for that period. An audit to determine the final premium due or to be refunded will be completed within 180 days after the expiration date of the policy and may not be waived, except when:
 - a. The total annual premium attributable to the auditable exposure is not reasonably expected to exceed \$1,500; or
 - b. The policy requires notification to the insurer with specific information of any additional exposure units (e.g. buildings) for which coverage is requested.

If the sum of the advance and audit premiums paid for the policy period is greater than the earned premium, we will return the excess to the first Named Insured.

Except as provided in Paragraph **J.2.**, the **Examination Of Your Books And Records** Businessowners Common Policy Conditions continues to apply.

Q. The following is added to Paragraph **E. Property Loss Conditions**:

10. Estimation Of Claims

Upon request, we will furnish you or your representative with a written estimate of damages to real property, specifying all deductions, provided such an estimate has been prepared by us or has been prepared on our behalf for our own purposes. This estimate will be provided within thirty days after your request of its preparation, whichever is later.

POLICY NUMBER:

BUSINESSOWNERS
BP 04 36 01 97

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

HIRED AUTO AND NON-OWNED
AUTO LIABILITY - NEW YORK

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS POLICY

Coverage	SCHEDULE	Additional Premium
Hired Auto Liability	Refer to Policy Level Coverage Schedule	
Non-Owned Auto Liability		
A. Insurance is provided only for those coverages for which a specific premium charge is shown in the Declarations or in the Schedule.	(1) Property owned or being transported by, or rented or loaned to the insured; or	
1. HIRED AUTO LIABILITY	(2) Property in the care, custody or control of the insured.	
The insurance provided under the Businessowners Liability Coverage Form, Paragraph A.1. Business Liability, applies to "bodily injury" or "property damage" arising out of the maintenance or use of a "hired auto" by you or your "employees" in the course of your business.	2. WHO IS AN INSURED in the Businessowners Liability Coverage Form, Paragraph C. is replaced by the following:	
2. NON-OWNED AUTO LIABILITY	Each of the following is an insured under this endorsement to the extent set forth below:	
The insurance provided under the Businessowners Liability Coverage Form, Paragraph A.1. Business Liability, applies to "bodily injury" or "property damage" arising out of the use of any "non-owned auto" in your business by any person other than you.	a. You; b. Any other person using a "hired auto" with your permission; c. For a "non-owned auto", any partner or "executive officer" of yours, but only while such "non-owned auto" is being used in your business; and d. Any other person or organization, but only for their liability because of acts or omissions of an insured under a., b. or c. above.	
B. For insurance provided by this endorsement only:	None of the following is an insured:	
1. The exclusions, under the Businessowners Liability Coverage Form, Paragraph B.1. Applicable to Business Liability Coverages, other than exclusions a., b., d., f. and i. are deleted and replaced by the following:	(1) Any person engaged in the business of his or her employer for "bodily injury" to any co-"employee" of such person injured in the course of employment;	
a. "Bodily injury" to an "employee" of the insured arising out of and in the course of: (1) employment by the insured; or (2) Performing duties related to the conduct of the insured's business.	(2) Any partner or "executive officer" for any "auto" owned by such partner or officer or a member of his or her household;	
But this exclusion does not apply to "bodily injury" to domestic "employees" not entitled to workers' compensation benefits or to liability assumed by the insured under an "insured contract".	(3) Any person while employed in or otherwise engaged in duties in connection with an "auto business", other than an "auto business" you operate;	
b. "Property damage" to:	(4) The owner or lessee (of whom you are a sublessee) of a "hired auto"	

or the owner of a "non-owned auto" or any agent or "employee" of any such owner or lessee;

(5) Any person or organization for the conduct of any current or past partnership or joint venture that is not shown as a Named Insured in the Declarations.

C. The following additional definitions apply:

1. **"Auto Business"** means the business or occupation of selling, repairing, servicing, storing or parking "autos".

2. **"Hired Auto"** means any "auto" you lease, hire or borrow. This does not include any "auto" you lease, hire or borrow from any of your "employees" or members of their households, or from any partner or "executive officer" of yours.
3. **"Non-Owned Auto"** means any "auto" you do not own, lease, hire or borrow which is used in connection with your business. However, if you are a partnership, a "non-owned auto" does not include any "auto" owned by any partner.

BUSINESSOWNERS
BP 05 23 11 02

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

CAP ON LOSSES FROM CERTIFIED ACTS OF TERRORISM

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

A. The following provisions are added to the Businessowners Policy and apply to Property and Liability Coverage:

CAP ON CERTIFIED TERRORISM LOSSES

"Certified act of terrorism" means an act that is certified by the Secretary of the Treasury, in concurrence with the Secretary of State and the Attorney General of the United States, to be an act of terrorism pursuant to the federal Terrorism Risk Insurance Act of 2002. The criteria contained in that Act for a "certified act of terrorism" include the following:

1. The act resulted in aggregate losses in excess of \$5 million; and
2. The act is a violent act or an act that is dangerous to human life, property or infrastructure and is committed by an individual or individuals acting on behalf of any foreign person or foreign interest, as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.

With respect to any one or more "certified acts of terrorism" under the federal Terrorism Risk Insurance Act of 2002, we will not pay any amounts for which we are not responsible under the terms of that Act (including subsequent action of Congress pursuant to the Act) due to the application of any clause which results in a cap on our liability for payments for terrorism losses.

B. The following provision is added to Businessowners Standard Property Coverage Form **BP 00 01**, Businessowners Special Property Coverage Form **BP 00 02** or **Section I - Property** of Businessowners Coverage Form **BP 00 03**.

APPLICATION OF OTHER EXCLUSIONS

The terms and limitations of any terrorism exclusion, or the inapplicability or omission of a terrorism exclusion, do not serve to create coverage for any loss which would otherwise be excluded under this Coverage Form or Policy, such as losses excluded by the Nuclear Hazard Exclusion or the War And Military Action Exclusion.

EXCLUSION - EXTERIOR INSULATION AND FINISH SYSTEM WORK

This endorsement modifies insurance provided under the following:

**BUSINESS OWNERS POLICY
COMMERCIAL GENERAL LIABILITY COVERAGE FORM**

This insurance does not apply to "bodily injury" or "property damage" included in the "products-completed operations hazard" and arising out of "your work" as described below.

Description of excluded work:

1. the design, manufacture, construction, fabrication, preparation, installation, application, maintenance or repair, including remodeling, service, correction, or replacement, of an "exterior insulation and finish system" (commonly referred to as synthetic stucco) or any part thereof, including the application or use of conditioners, primers, accessories, flashings, coatings, caulkings or sealants in connection with such a system.
2. any work or operations with respect to any exterior component, fixture or feature of any structure if an "exterior insulation and finish system" is used on any part of that structure.

For the purposes of this endorsement, an "exterior insulation and finish system" means an exterior cladding or finishing system used on any part of any structure, and consisting of:

- a. a rigid or semi-rigid insulation board made of expanded polystyrene or other materials; and
- b. the adhesive and/or mechanical fasteners used to attach the insulation board to the substrate, and
- c. a reinforced base coat, and
- d. a finish coat providing surface texture and color.

64-5838 (4/00)

ADVISORY NOTICE TO POLICYHOLDERS

EXTERIOR FINISHING SYSTEM EXCLUSION

An exclusion has been added to your policy which removes Product-Completed Operations liability coverage for any claim arising out of any use or application of Synthetic Stucco, which is also known as Exterior Insulation and Finishing Systems (EIFS).

Defects in the manufacture, design and application of this material result in the buildup of moisture behind the surfaces and lead to rapid deterioration of wood and other materials.

64-5841 (4/00)

OMNIBUS POLICY**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.****CONTRACTORS EXTENSION ENDORSEMENT - NEW YORK**

This endorsement modifies insurance provided under the following:

BUSINESS OWNERS SPECIAL PROPERTY COVERAGE FORM**BUSINESS OWNERS LIABILITY COVERAGE FORM**

If not provided elsewhere,

A. The following Additional Coverages are added:**1. Business Income**

We will pay for the actual loss of Business Income you sustain due to the necessary suspension of your "operations" during the "period of restoration." The suspension must be caused by direct physical loss of or damage to property at the described premises. The loss or damage must be caused by or result from a Covered Cause of Loss. With respect to loss of or damage to personal property in the open or personal property in a vehicle, the described premises include the area within 100 feet of the site at which the described premises are located.

With respect to the requirements set forth in the preceding paragraph, if you occupy only part of the site at which the described premises are located, your premises means:

- a. The portion of the building which you rent, lease or occupy; and
- b. Any area within the building or on the site at which the described premises are located, if that area services, or is used to gain access to, the described premises.

We will only pay for loss of Business Income that you sustain during the "period of restoration" and that occurs within 12 consecutive months after the date of direct physical loss or damage. We will only pay for ordinary payroll expenses for 60 days following the date of direct physical loss or damage.

Business Income means that:

- (1) Net Income (Net Profit or Loss before income taxes) that would have been earned or incurred if no physical loss or damage had occurred, but not including any Net Income that would likely have been earned as a result of an increase in the volume of business due to favorable business conditions caused by the impact of the Covered Cause of Loss on customers or on other businesses; and
- (2) Continuing normal operating expenses incurred, including payroll.

Ordinary payroll expenses mean payroll expenses for all your employees except:

- (1) Officers;
- (2) Executives;
- (3) Department Managers;
- (4) Employees under contract; and

- (5) Additional Exemptions shown in the Declarations as:
 - (a) Job Classifications; or
 - (b) Employees.

Ordinary payroll expenses include:

- (1) Payroll;
- (2) Employee benefits, if directly related to payroll;
- (3) FICA payments you pay;
- (4) Union dues you pay; and
- (5) Workers' compensation premiums.

2. Extended Business Income

If the necessary suspension of your "operations" produces a Business Income loss payable under this policy, we will pay for the actual loss of Business Income you incur during the period that:

- a. Begins on the date property except finished stock is actually repaired, rebuilt or replaced and "operations" are resumed; and
- b. Ends on the earlier of:
 - (1) The date you could restore your "operations", with reasonable speed, to the level which would generate the Business Income amount that would have existed if no direct physical loss or damage had occurred; or
 - (2) 30 consecutive days after the date determined in (2)(a) above.

However, Extended Business Income does not apply to loss of Business Income incurred as a result of unfavorable business conditions caused by the impact of the Covered Cause of Loss in the area where the described premises are located.

Loss of Business Income must be caused by direct physical loss or damage at the described premises caused by or resulting from any Covered Cause of Loss.

This Additional Coverage is not subject to the Limits of Insurance.

3. Extra Expense

- a. We will pay necessary Extra Expense you incur during the "period of restoration" that you would not have incurred if there had been no direct physical loss or damage to property at the described premises. The loss or damage must be caused by or result from a Covered

Cause of Loss. With respect to loss of or damage to personal property in the open or personal property in a vehicle, the described premises include the area within 100 feet of the site at which the described premises are located.

With respect to the requirements set forth in the preceding paragraph, if you occupy only part of the site at which the described premises are located, your premises means:

- (1) The portion of the building which you rent, lease or occupy; and
- (2) Any area within the building or on the site at which the described premises are located, if that area services, or is used to gain access to, the described premises.

b. **Extra Expense** means expense incurred:

- (1) To avoid or minimize the suspension of business and to continue "operations":
 - (a) At the described premises; or
 - (b) At replacement premises or at temporary locations, including relocation expenses, and costs to equip and operate the replacement or temporary locations.
- (2) To minimize the suspension of business if you cannot continue "operations".
- (3) To:
 - (a) Repair or replace any property; or
 - (b) Research, replace or restore the lost information on damaged "valuable papers and records";

to the extent it reduces the amount of loss that otherwise would have been payable under this Additional Coverage or Additional Coverage f. Business Income.

We will only pay for Extra Expense that occurs within 12 consecutive months after the date of direct physical loss or damage. This Additional Coverage is not subject to the Limits of Insurance.

4. **Business Income and Extra Expense Exclusions**

We will not pay for:

- a. Any Extra Expense, or increase of Business Income loss, caused by or resulting from:
 - (1) Delay in rebuilding, repairing or replacing the property or resuming "operations", due to interference at the location of the rebuilding, repair or replacement by strikers or other persons; or
 - (2) Suspension, lapse or cancellation of any license, lease or contract. But if

the suspension, lapse or cancellation is directly caused by the suspension of "operations", we will cover such loss that affects your Business Income during the "period of restoration".

5. **The Deductible Clause does not apply to Business Income and Extra Expense.**

B. **Coverage Extensions**

In addition to the Limit of Insurance, you may extend the insurance provided by this policy as provided below.

Except as otherwise provided, the following Extensions apply to property located in or on the building described in the Declarations or in the open (or in a vehicle) within 100 feet of the described premises, unless a higher Limit of Insurance is shown in the Declarations.

1. **Newly Acquired or Constructed Buildings**

- a. When building coverage is provided, you may extend the insurance that applies to Building to apply to:
 - (1) Your new buildings while being built on the described premises; and
 - (2) Buildings you acquire at locations, other than the described premises, intended for:
 - (a) Similar use as the building described in the Declarations; or
 - (b) Use as a warehouse.

The most we will pay for loss or damage under this Extension is 25% of the Limit of Insurance for Building shown in the Declarations, but not more than \$250,000 at each building.

2. **"Valuable Papers And Records"**

- a. If not provided elsewhere you may extend the insurance that applies to Business Personal Property to apply to direct physical loss or damage to "valuable papers and records" that you own, or that are in your care, custody or control caused by or resulting from a Covered Cause of Loss. This Coverage Extension includes the cost to research lost information on "valuable papers and records" for which duplicates do not exist.
- b. This Coverage Extension does not apply to:
 - (1) Property held as samples or for delivery after sale;
 - (2) Property in storage away from the premises shown in the Declarations.
- c. The most we will pay under this Coverage Extension for loss or damage to "valuable papers and records" in any one occurrence at the described premises is \$10,000, unless a higher Limit of Insurance for "valuable papers and records" is shown in the Declarations.

For "valuable papers and records" not at the described premises, the most we will pay is \$2,500.

d. Valuable Papers and Records Extension is subject to the following exclusions:

(1) Governmental Action

Seizure or destruction of property by order of governmental authority.

But we will pay for loss or damage caused by or resulting from acts of destruction ordered by governmental authority and taken at the time of a fire to prevent its spread, if the fire would be covered under this policy.

(2) Nuclear Hazard

Nuclear reaction or radiation, or radioactive contamination, however caused.

But if nuclear reaction or radiation, or radioactive contamination, results in fire, we will pay for the loss or damage caused by that fire.

(3) War And Military Action

- (a) War, including undeclared or civil war;
- (b) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
- (c) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

(4) Dishonesty

Dishonest or criminal acts by you, anyone else with an interest in the property, or any of your or their partners, employees, directors, trustees, authorized representatives or anyone to whom you entrust the property for any purpose;

- (a) Acting alone or in collusion with others;
- (b) Whether or not occurring during the hours of employment.

This exclusion does not apply to acts of destruction by your employees; but theft by employees is not covered.

With respect to accounts receivable and "valuable papers and records", this exclusion does not apply to carriers for hire.

(5) False Pretense

Voluntary parting with any property by you or anyone else to whom you have entrusted the property if induced to do so by any fraudulent

scheme, trick, device or false pretense.

(6) We will not pay for loss or damage caused by or resulting from electrical or magnetic injury, disturbance or erasure of electronic recordings that is caused by or results from:

- (a) Programming errors or faulty machine instructions;
- (b) Faulty installation or maintenance of data processing equipment or component parts;

But we will pay for direct loss or damage caused by lightning.

(7) We will not pay for loss or damage caused by or resulting from any of the following:

- (a) Errors or omissions in processing or copying. But if errors or omissions in processing or copying results in fire or explosion, we will pay for the direct loss or damage caused by that fire or explosion.
- (b) Wear and tear, gradual deterioration or latent defect.

(8) We will not pay for loss or damage caused by or resulting from any of the following. But if an excluded cause of loss that is listed below results in a Covered Cause of Loss, we will pay for the loss or damage caused by that Covered Cause of Loss.

(9) Weather Conditions

Weather conditions. But this exclusion only applies if weather conditions contribute in any way with a cause or event excluded in Paragraph 1. above to produce the loss or damage.

(10) Acts Or Decisions

Acts or decisions, including the failure to act or decide, of any person, group, organization or governmental body.

(11) Negligent Work

Faulty, inadequate or defective:

- (a) Planning, zoning, development, surveying, siting;
- (b) Design, specifications, workmanship, repair, construction, renovation, remodeling, grading, compaction;
- (c) Materials used in repair, construction, renovation or remodeling ; or
- (d) Maintenance;

of part or all of any property on or off the described premises.

3. When the Businessowners Special Property Coverage Form is attached to this policy,

paragraph G.5. Optional Coverages, Mechanical Breakdown does not apply. Coverage for Mechanical Breakdown, if applicable, will be provided by our attachment of the Mechanical, Electrical and Pressure Systems Breakdown Coverage endorsement.

4. When the Businessowners Special Property Coverage Form is attached to this policy, the second paragraph in **A.5.i. Coverage - Civil Authority** is deleted and replaced by the following:

The coverage for Business Income will begin immediately following the action of civil authority and will apply for a period of up to three consecutive weeks after coverage begins.

5. When the Businessowners Special Property Coverage Form is attached to this policy, Paragraph **E. Property Loss Conditions 6.d.(1) Loss Payment** is deleted and replaced by the following:

(1) At replacement cost (without deduction for depreciation), except as provided in (2) through (8) below:

(a) You may make a claim for loss or damage covered by this insurance on an actual cash value basis instead of on a replacement cost basis. In the event you elect to have loss or damage settled on an actual cash value basis, you may still make a claim on a replacement cost basis if you notify us of your intent to do so within 180 days after the loss or damage.

(b) We will not pay on a replacement cost basis for any loss or damage:

(i) Until the lost or damaged property is actually repaired or replaced; and

(ii) Unless the repairs or replacement are made as soon as reasonably possible after the loss or damage.

(c) We will not pay more for loss or damage on a replacement cost basis than the least of:

(i) The cost to replace, on the same premises, the lost or damaged property with other property:

i. Of comparable material and quality; and

ii. Used for the same purpose; or

(ii) The amount you actually spend that is necessary to repair or replace the lost or damaged property.

6. Subject to the provisions of the **Businessowners Liability Coverage Form**, the following is made part of this policy:

a. **Artisan Legal Liability Coverage:** This insurance applies to your liability arising out of:

(1) misinterpretation or wrongful application of designs, specifications, drawings, surveys, maps, reports, opinions, or change orders; and

(2) incidental system or product amendment that is necessary for installation, service or completion of work performed by you.

C. The Businessowners Special Property Coverage Form is amended as follows:

Paragraph A.6.b. Personal Property Off Premises is replaced by the following:

You may extend the insurance that applies to Business Personal Property to apply to covered Business Personal Property, other than "money" and "securities", "valuable papers and records", accounts receivable or fixtures, supplies and building materials or tools or equipment used in the contracting or installation trades, while it is in the course of transit or temporarily at a premises you do not own, lease or operate. The most we will pay for loss or damage under this Extension is \$5,000.

D. The Businessowners Liability Coverage Form is amended as follows:

1. Paragraph **D.4. of the Liability And Medical Expenses Limits Of Insurance Aggregate Limits** provision is replaced by the following:

The most we will pay for:

a. Injury or damage under the "products-completed operations hazard" arising from all "occurrences" during the policy period is twice the Liability and Medical Expenses limit; and

b. All other injury or damage, including medical expenses, arising from all "occurrences" during the policy period is twice the Liability and Medical Expenses limit. This limitation does not apply to "property damage" to premises while rented to you or temporarily occupied by you with permission of the owner, arising out of fire or explosion.

2. Each of the following is added as an Additional Insured to Paragraph **C. Who Is An Insured** in the Businessowners Liability Coverage Form but only as specifically described by the following:

a. Any general contractor, subcontractor or owner for whom you are required to add as an additional insured on this policy under a written construction contract or agreement where a certificate of insurance showing that person or organization as an additional insured has been issued and received by "us" prior to the time of loss. The written contract and agreement must be:

(1) in effect or become effective during the term of this policy; and

(2) executed prior to the "occurrence" resulting in "bodily injury", "property damage", "personal injury" or "advertising injury".

The insurance provided to the additional insured is limited as follows:

(1) the additional insured is an additional insured only for its vicarious liability for your acts or omissions which arise from your ongoing construction operations performed for that additional insured. The additional insured is not insured for liability due to its independent acts or for any supervision of "your work" or the work of any other person or organization,

(2) the limits of insurance applicable to the additional insured are those specified in the written contract or agreement or in the Declarations for this policy, whichever are less, and

(3) this insurance does not apply to "bodily injury" or "property damage" included in the "products-completed operations hazard" unless you are required to provide such coverage by written contract and then only for the period of time required by the contract but in no event beyond the expiration date of the policy.

The insurance provided to the additional insured does not apply to "bodily injury", "property damage", "personal injury" or "advertising injury" arising out of an architect's, engineers or surveyor's rendering of or failure to render any professional services including:

(1) the preparing, approving, or failing to prepare or approve maps, drawings, opinions, reports, surveys, change orders, design or specifications; and

(2) supervisory, inspection or engineering services.

The insurance provided under this paragraph 2.a. is excess over any other valid and collectible insurance available to the additional insured.

b. Any person or organization to whom you are obligated by virtue of a written "insured contract" to provide insurance such as is afforded by this policy, but only with respect to liability arising out of the ownership, maintenance or use of that part of the premises leased to you. This insurance does not apply to:

(1) Any "occurrence" that takes place after you cease to be a tenant in the premises; and

(2) Structural alterations, new construction or demolition operations performed by or for the person or organization designated in the Schedule.

c. Any state or political subdivision, subject to the following provisions:

(1) This insurance applies only with respect to operations performed by you or on your behalf for which the state or political subdivision has issued a permit.

(2) This insurance does not apply to:

(a) "Bodily injury", "property damage", "personal injury" or "advertising injury" arising out of operations performed for the state or municipality; or

(b) "Bodily injury" or "property damage" included within the "products-completed operations hazard".

d. Any person or organization who is the lessor of leased equipment leased to you, and required by the lease to be included as an additional insured but only with respect to liability arising out of the maintenance, operation or use by you of equipment leased to you subject to the following additional exclusions:

(1) Any "occurrence" which takes place after the equipment lease expires; or

(2) "Bodily injury" or "property damage" arising out of the sole negligence of the person or organization who is the lessor of such leased equipment.

e. Any architect, engineer, or surveyor engaged by you but only with respect to liability arising out of your premises or ongoing operations performed by you or on your behalf.

The insurance with respect to such architects, engineers, or surveyors does not apply to "bodily injury," "property damage," "personal injury," or "advertising injury," arising out of the rendering of or the failure to render any professional services by or for you, including:

(1) The preparing, approving, or failing to prepare or approve maps, drawings, opinions, reports, surveys, change orders, designs or specifications; and

(2) Supervisory, inspection, or engineering services.

f. Any person or organization as mortgagee, assignee or receiver, but only with respect to liability arising out of the ownership, maintenance or use of the premises or that part of the premises by you.

This insurance does not apply to:

(1) Any "occurrence" that takes place after you cease to be a tenant in that premises; or

(2) structural alterations, new construction and demolition operations

performed by or for that person or organization.

E. Additional Definitions

The following definitions are added for Additional Coverages:

1. "Operations" means your business activities occurring at the described premises.
2. "Period of restoration" means the period of time that:
 - a. Begins:
 - (1) Immediately after the time of direct physical loss or damage for Business Income Coverage; or
 - (2) Immediately after the time of direct physical loss or damage for Extra Expense Coverage;
 - caused by or resulting from any Covered Cause of Loss at the described premises; and
 - b. Ends on the earlier of:

- (1) The date when the property at the described premises should be repaired, rebuilt or replaced with reasonable speed and similar quality; or

- (2) The date when business is resumed at a new permanent location.

"Period of restoration" does not include any increased period required due to the enforcement of any ordinance or law that:

- (1) Regulates the construction, use or repair, or requires the tearing down of any property; or
- (2) Requires any insured or others to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to or assess the effects of "pollutants".

The expiration date of this policy will not cut short the "period of restoration".

WITH ACCURATE RECORD KEEPING, YOU CAN HELP CONTROL YOUR INSURANCE COSTS!

AUDITS

Your policy premium was estimated because it is based on payroll and/or sales amounts which fluctuate throughout the year. As a result, your policy is subject to audit at the end of the coverage period to determine whether we must charge you additional premium or return any excess premium you paid.

CERTIFICATES OF INSURANCE

If you have contractors perform work for you, it is vital that you obtain a certificate of insurance from them proving they have valid Workers Compensation insurance for the state in which they conducted the operations. Most state Workers Compensation Acts require that we charge you to provide the coverage when there is no proof that the contractor carries valid insurance.

For General Liability, the coverage must be appropriate for the operations being conducted and the limits must be at least \$300,000 per occurrence, or if less than \$300,000, equal to your limit of liability. If no Certificate is available, and/or your contractor does not meet the described limit liability requirements, we will charge you full liability rates.

PAYROLL CLASSIFICATIONS

We want to help control your insurance costs. To do that, you need to keep records for the specific operations you conduct. For example, many contracting classifications allow division of payroll by type of work when separate payroll records are maintained. The same applies to certain products, allowing the receipts or payroll for installation or service to apply at different rates. Estimates and percentages cannot be used — your records must reflect actual payroll by type of work. Without this specific record keeping, we must charge the highest rated classification.

OTHER PAYROLL INFORMATION

Many policies base premiums on payroll. This includes wages, commissions, bonuses, overtime, paid holidays, sick time, vacation, fair market value of food or lodging furnished by the employer or allowance for tools furnished by the employee and used in his work.

Many states also permit an overtime deduction which varies if time and a half or double time is paid. Be certain to keep payroll records documenting such payments.

If you are the sole proprietor or executive officer and are covered under your policy, please keep this information separate because there may be a payroll limitation or a fixed payroll applicable to you regardless of your actual earnings.

Thank you for the opportunity to provide you with insurance coverage. We hope that this letter helps you minimize your insurance costs. If you have any questions, please contact your insurance agent.

IMPORTANT NOTICE - NEW YORK CONTRACTORS

As a condition of continuing to provided General Liability insurance coverage to its Contractor Policy insureds, NGM requires that you obtain a hold harmless agreement from each subcontractor you engage to do work on your behalf. The form shown below is acceptable, but if you prefer the use of another format that achieves the same objective as suggested by PIA, IANY or your business attorney, we can accept that format.

INDEMNIFICATION, HOLD HARMLESS AND INSURANCE AGREEMENT

A. INDEMNIFICATION AND HOLD HARMLESS

To the fullest extent permitted by law,

_____, ("Subcontractor")
agrees to defend, indemnify and hold harmless
_____, ("General Contractor") and
_____, ("Owner"), (if any),
its/their officers, directors, agents and employees from and against any and all claims, suits, liens, judgments, damages, losses and expenses including reasonable legal fees and costs arising in whole or in part and in any manner from acts, omissions, breach or default of Subcontractor, in connection with performance of any work by Subcontractor, its officers, directors, agents, employees and subcontractors.

B. INSURANCE

- Subcontractor hereby agrees that it will obtain and keep in force an insurance policy/policies to cover its liability hereunder and to defend and save harmless General Contractor and Owner in the minimum amounts of \$1,000,000 per occurrence (or another appropriate agreed upon amount) for personal injury, bodily injury and property damage.
- Said liability policies shall name General Contractor and Owner as additional insureds and shall be primary to any other insurance policies.
- Subcontractor will obtain and keep in force Workers Compensation insurance including Employees Liability to the full statutory limits.
- Subcontractor shall furnish to the General Contractor certificates of insurance evidencing that the aforesaid insurance coverage is in force.

Subcontractor: _____

Signature: _____

Date: _____

**National Grange Mutual Insurance Company
Old Dominion Insurance Company
Main Street America Assurance Company**

PRIVACY NOTICE

As your insurer, our objective is to professionally serve your insurance needs. We recognize that in providing these services, we have an obligation to safeguard the personal information you entrust to us as well as other information we may collect as part of the insurance transaction.

This notice describes the privacy practices and standards we adopted to protect and ensure the confidentiality of your non-public personal information. All of our insurance companies listed above adhere to these practices and standards.

OUR POLICY

We do not disclose any non-public personal information about our policyholders or claimants to any third parties except as permitted by law. Any such disclosures are made for the purpose of transacting the business of your insurance coverage or your claim. We do not sell or market your non-public personal information.

THE INFORMATION WE COLLECT

Most of your non-public personal information is provided by you on your application for insurance. Depending on the type of insurance policy you request, we may seek additional information about you or other individuals who are being proposed for coverage under the policy. In certain circumstances we may collect information about you from third parties. For example, for automobile insurance we may seek driver information from the state motor vehicle department; for property insurance we may send someone to inspect the property. We may review prior insurance claims information. We may obtain medical or financial information. We may also receive information about you from a consumer reporting agency. The information we collect allows us to properly underwrite and rate your insurance policy and to complete the other transactions incidental to your insurance policy.

THE INFORMATION WE DISCLOSE

We do not disclose any non-public information about you or about participants or claimants under your insurance policy to anyone, except as permitted by law, nor do we sell customer or policyholder information to mailing list companies or mass marketing companies. We may share information about you or about participants or claimants under your insurance policy in the normal business of conducting insurance operations, such as with your agent or broker; appraisers and independent adjusters who investigate, defend or settle your claims; insurance regulators; and your mortgage lender or lienholder.

HOW WE PROTECT YOUR PERSONAL INFORMATION

We restrict access to non-public personal information about you or about participants and claimants under your insurance policy to those employees who need to know that information to provide products or services to you. We maintain physical, electronic and procedural safeguards that comply with state and federal regulations to guard your non-public personal information. Our employees are educated on the importance of maintaining the standards we have in place.

We also use a wide variety of data protection procedures, computer hardware and software tools to guard system and data privacy and integrity. Our computer systems are also protected by additional measures intended to prevent unauthorized access.

ADDITIONAL INFORMATION

If you would like to receive a copy of our privacy policy please contact us as follows:

Main Street America Group
ATTN: Privacy Compliance Coordinator
55 West Street
Keene, NH 03431

These privacy practices and standards have been put in place to protect your personal information. You will receive a reaffirmation of our privacy practices annually.

IMPORTANT NOTICE TO MILITARY PERSONNEL

THIRD PARTY DESIGNEE AVAILABILITY

If you are an individual who has been called to active military duty, New York law permits you to designate an adult third party to receive duplicate premium notices and copies of other notices issued to you for your insurance policies. You also have the option of suspending coverage without any penalties. Please be advised that with respect to the suspension of automobile coverage, you will need to surrender your registration and plates to the Department of Motor Vehicles.

If you would like to elect a third party designee and you have been called to active military duty, please fully complete the information below and send this entire form to your agent or broker.

You may terminate the third party designation by sending written notification to the designated third party and us.

Policy number(s) for which you elect a Third Party Designee:

Name, address and telephone number of Third Party Designee:

Name _____

Street _____

City _____ State _____ Zip Code _____

Telephone Number including area code _____

Signature of Insured

Date

I accept the designation above, I understand my designation, as a third party shall not constitute acceptance of any liability on my part or the insurer for services provided to the insured. If I decide to terminate my designation, I must send written notification to both the insured and the insurer.

Signature of Third Party Designee

Date

If you have any questions, please contact your agent or broker.

EXHIBIT R

Mainetti, Mainetti & O'Connor, P.C.

ATTORNEYS AT LAW
303 CLINTON AVENUE
P.O. BOX 3058

Kingston, New York 12402-3058

ALFRED B. MAINETTI
VICTOR R. MAINETTI (1956-1993)
JOSEPH E. O'CONNOR

REGINA FITZPATRICK

PLEASE RESPOND TO:
P.O. BOX 3058
KINGSTON, NEW YORK 12402-3058

SENATE HOUSE PROFESSIONAL BUILDING

(845) 331-9434
FAX (845) 331-2004

March 18, 2006

National Grange Mutual Insurance
55 West Street
Keene, NH 03431

Re: Blakely adv. Slingerland
Your Policy No.: MPV52824 - 001-645

Dear Sirs:

Enclosed herein please find amended summons and complaint served upon this office by mail together with cover letter requesting this office accept service on behalf of defendant Blakely Pumping, Inc., d/b/a Assential Pumping, Inc, as personal attorney for Blakely Pumping, Inc. I have accepted service of same. Would you please immediately arrange the defense of such action pursuant to the policy of insurance issued by your offices.

If you have any questions, please do not hesitate to contact the undersigned.

Very truly yours,

MAINETTI, MAINETTI & O'CONNOR, P. C.



BY: ALFRED B. MAINETTI, ESQ.

ABM:mal

cc: Assential Pumping, Inc.
11 Mary Lou Lane
Shokan, New York 12481